



Claim Form

In the High Court of Justice Business and Property Courts of England and Wales London Circuit Commercial Court (QBD)		28 Jan 2021
Fee Account no.	PBA0087055	
Help with Fees – Ref. no. (if applicable)	H W F - [] [] LM-2021-000014	

You may be able to issue your claim online which may save time and money. Go to www.moneyclaim.gov.uk to find out more.

	For court use only
Claim no.	
Issue date	

Claimant(s) name(s) and address(es) including postcode

The Catalyst Capital Group Inc
181 Bay Street Suite 4700,
P.O. Box 792 Bay Wellington Tower Brookfield Place,
Toronto,
Ontario / M5J 2T3,
Canada

Callidus Capital Corporation
181 Bay Street 4620,
PO Box 792 Bay Wellington Tower,
Toronto,
Ontario/ M5J 2T3,
Canada



Defendant(s) name and address(es) including postcode

(1) B.C Strategy UK Ltd
1 Ropemaker Street
Moorgate
London
EC2Y 9HT

(2) B.C. Strategy Ltd
23 Yehuda Halevi Street
Tel Aviv
Israel

Brief details of claim

See attached general endorsement.

For further details of the courts www.gov.uk/find-court-tribunal.

When corresponding with the Court, please address forms or letters to the Manager and always quote the claim number.

N1 Claim form (CPR Part 7) (06.16)

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Value

The Claimant expect to recover more than £100,000



You must indicate your preferred County Court Hearing Centre for hearings here (see notes for guidance)

London Circuit Commercial Court

Defendant's name
and address for
service including
postcode

(1) B.C Strategy UK Ltd
1 Ropemaker Street
Moorgate
London
EC2Y 9HT

(2) B.C. Strategy Ltd
23 Yehuda Halevi Street
Tel Aviv
Israel

£

Amount claimed	To be assessed
Court fee	10,525
Legal representative's costs	To be assessed
Total amount	To be assessed

Claim No.

Does, or will, your claim include any issues under the Human Rights Act 1998? ☐ Yes ☒ No

Particulars of Claim

If an acknowledgment of service is filed indicating an intention to defend the claim, Particulars of Claim will follow.

Statement of Truth

I believe that the facts stated in this Claim Form are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Full name Rocco DiPucchio

Position Chief Operating Officer & Managing Director

Name of claimants legal representative's firm Gowling WLG (UK) LLP

signed [REDACTED] position or office held C.O.O.

Claimant

**delete as appropriate*

Gowling WLG (UK) LLP
Two Snowhill
Birmingham
B4 6WR

Claimant's or claimant's legal representative's address to which documents or payments should be sent if different from overleaf including (if appropriate) details of DX, fax or e-mail.



GENERAL ENDORSEMENT

1. On or about 11, September 2017, B.C. Strategy UK Ltd. d/b/a Black Cube (the First Defendant) entered into an agreement with an entity known as Tamara Global Holdings 2016 Ltd. ("**Tamara Global**") to provide investigative services ("**the Agreement**"). The First Defendant is part of a business intelligence firm which operates globally under the brand Black Cube. The Agreement provided that these services would be undertaken by the appropriate Black Cube entity, dependent upon the nature and geographical requirements of the specific service to be undertaken. Pursuant to this provision, B.C. Strategy Ltd (the Second Defendant) agreed to provide investigative services in accordance with the Agreement. Collectively, B.C. Strategy UK Ltd. d/b/a Black Cube and B.C. Strategy Ltd. are referred to hereinafter as "**Black Cube**".
2. At the time of entering into the Agreement, Black Cube knew and agreed that the purpose of the Agreement was to provide investigative services for the benefit of and potential use by Catalyst Capital Group Inc. ("**Catalyst**") and Callidus Capital Corporation ("**Callidus**") (Catalyst and Callidus both being incorporated in Ontario Canada and together being "**the Claimants**").
3. Black Cube intended and agreed that the services to be provided by it pursuant to the Agreement would :
 - a. be undertaken on a confidential basis;
 - b. be performed in a manner that complied with all applicable laws, (clause 5 of the Retainer Letter);
 - c. be reviewed by Black Cube with appropriate legal counsel to ensure compliance with all applicable laws, and,
 - d. be undertaken in a manner to ensure that if any facts, documents or other information were obtained by or generated by Black Cube's investigative services, such facts, documents and information would be available for use in, and would be admissible in, any existing or future legal proceedings in which the Claimants were or became parties before the Courts in Ontario, or otherwise.



4. Black Cube owed a duty of care to the Claimants under Ontario law alternatively under English law to carry out the investigative services with a high degree of skill and care and in accordance with all applicable laws. In breach of these duties, Black Cube acted in a reckless and negligent manner, including by failing:
 - a. to ensure that its services were and remained confidential;
 - b. to obtain appropriate legal advice to ensure that Black Cube's services were performed in accordance with Ontario law;
 - c. to ensure that the investigative techniques and methods which Black Cube utilized were above reproach and would not expose the Claimants to any claims on the part of any of the persons or entities investigated by Black Cube.
5. In the alternative to the common law claims of negligence asserted herein, the Claimants are entitled to enforce the provisions of the Agreement as parties to a collateral contract or, in the further alternative, pursuant to section 1(1)(b) of the Contract (Rights of Third Parties) Act 1999.
6. Black Cube was paid substantial remuneration to provide services for the intended benefit of the Claimants in accordance with the expectations set out in paragraphs 1-4 above, or, in the alternative the Agreement.
7. Black Cube did not perform the investigative services in issue in accordance with the obligations and expectations referred to above and/ or acted in breach of its duty to take reasonable care at common law or under the Agreement.
8. As a consequence of the conduct of Black Cube, including breaches of duty and the negligence, and/or breaches of contract, referred to herein:
 - a. the Claimants have been exposed to liability at the instance of and have been sued in Canada by certain of the persons and entities investigated by Black Cube, including West Face Capital Inc and Gregory Boland (the "**West Face Parties**") ;
 - b. the claims and exposure referred to in paragraph 8 a above are the subject of a counterclaim by the West Face Parties against the Claimants in the Canadian courts , bearing Court File



No. CV-17-587463-00CL (Ontario Superior Court, Commercial List, Toronto) ("**Pending Proceedings**") seeking C\$450,000,000;

- c. the Claimants have been required to expend substantial funds on account of legal fees and other out of pocket expenses to defend itself in the Pending Proceedings by reason of the allegations of misconduct by Black Cube;
 - d. the Claimants' ability to pursue its own claims under Ontario law or civil conspiracy and defamation against the West Face Parties and the other defendants named in the Pending Proceedings has been delayed and prejudiced.
9. At this juncture it is impossible to fully and accurately determine the total damages sustained by the Claimants as a result of the breaches of duty, negligence and breaches of contract alleged herein, but the Claimants estimate that the compensable losses caused by the Defendants will be substantial, not including any potential damages arising pursuant to the claims for contribution and indemnity referred to in paragraph 10 below.
10. Further or alternatively, the Claimants seek an indemnity from Black Cube in respect of the matters set out at paragraph 7 herein, pursuant to the Civil Liability (Contribution) Act 1978 or otherwise.
11. The Claimants further state that the failure of Black Cube to:
- a. comply with the terms of the Agreement;
 - b. act in a manner that fulfilled the expectations and intentions of the parties; or
 - c. act in a prudent, professional and competent manner in the investigative activities and methods employed by Black Cube,
- amounts to money had and received by Black Cube and /or a total failure of consideration which entitles the Claimants to full reimbursement in respect of any of the fees paid by them or on their behalf to Black Cube.



12. The Claimants' claims are for:

- a. damages for negligence in the performance of the investigation services which were the subject of the Agreement;
- b. further or alternatively, damages for breach of contract in connection with the investigation services rendered pursuant to the Agreement;
- c. an indemnity or contribution equivalent to the amount, if any, of damages, interest and costs for which the Claimants are found to be responsible by reason of the Pending Proceedings;
- d. an order for the return to the Claimants of any and all fees paid by them or on their behalf to the Defendants pursuant to the Agreement;
- e. damages in an amount equal to all existing and future legal fees and other expenses incurred by the Claimants to defend themselves against the Pending Proceedings;
- f. a declaration that the Defendants have breached :
 - i. the duties of care owed by them to the Claimants as alleged herein, or,
 - ii. in the alternative, their obligations to the Claimants under the Agreement
- g. Further or other relief;
- h. interest on the aforementioned claims in accordance with s35A of the Senior Courts Act 1981 for such period as the Court thinks fit, and,
- i. costs